

1                                   BEFORE THE  
2                                   POLLUTION CONTROL HEARINGS BOARD  
                                  STATE OF WASHINGTON

3 IN THE MATTER OF                   )  
4 ELVA HAMRICK, d.b.a.               )  
5 Oaks Trailer Park,                )  
                                  Appellant,                )  
6                   v.                )  
7 SOUTHWEST AIR POLLUTION           )  
8 CONTROL AUTHORITY,                )  
                                  Respondent.                )  
9 \_\_\_\_\_)

PCHB No. 77-143

FINAL FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER

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11       A formal hearing of an appeal from a denial of a request for an open  
12 burning permit came before the Pollution Control Hearings Board, Dave J.  
13 Mooney and Chris Smith, on January 20, 1978 in Vancouver, Washington.  
14 David Akana presided.

15       Appellant appeared pro se; respondent appeared by and through its  
16 attorney, James D. Ladley.

17       Having heard the testimony, and having considered the contentions  
18 of the parties, the Pollution Control Hearings Board makes these

FINDINGS OF FACT

I

Respondent, pursuant to RCW 43.21B.260, has filed with this Board a certified copy of its Regulation I.

II

Section 4.01 of Regulation I prohibits any open fire without a permit therefor but no permit may be issued if an alternate method is available for the disposal of the material to be burned.

Section 2.07 of Regulation I provides for a variance from certain rules or regulations under certain circumstances.

III

Appellant owns and operates a trailer park near Woodland containing 13 trailers occupied mostly by older persons. In the fall of 1977, appellant sought a permit to burn leaves which accumulated upon her property from nearby trees, some of which grew on the State Department of Highways' right of way. Her application was denied for the reason that a practical alternate, i.e., "haul away service," was available for the disposal of the leaves. The denial was appealed to this Board.

IV

To avoid burning the leaves that fall, appellant filled 103 sacks (60 of which were provided by respondent) with fallen leaves, bending over 20 to 30 times to fill each sack, and had them taken away. She stated that rather than doing this again, she would sell her property. She hopes, however, to get a variance from the regulation which now prohibits the burning of her leaves in the fall.

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

V

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

The instant matter, the appeal of a denial of a permit for the open burning of leaves in 1977, has been rendered moot by subsequent events and the passage of time.

II

Appellant has been advised by respondent, and declares her understanding, that she can apply to respondent's Board of Directors for a variance from its open burning regulations which would allow her to burn leaves. In order that respondent has sufficient time to render a decision, and for her to appeal if such decision is adverse, appellant should make application for a variance on or before July 1 of each year that such variance is requested.

III

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions the Board enters this

ORDER

The appellant's appeal of respondent's denial of a permit for open burning is dismissed.

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 DATED this 26<sup>th</sup> day of January, 1978.

2 POLLUTION CONTROL HEARINGS BOARD

3 David J. Mooney  
4 DAVID J. MOONEY, Member

5 Chris Smith  
6 CHRIS SMITH, Member

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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER